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U.S. Senate

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Committee on Environment
and Public Works

Washington, D.C.

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BUSINESS MEETING

Thursday, April 28, 2016

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 9:00 a.m. in room 406, Dirksen Senate Office Building, the Honorable James Inhofe [chairman of the committee] presiding.

Present: Senators Inhofe, Boxer, Vitter, Barrasso, Capito, Crapo, Fischer, Rounds, Sullivan, Carper, Cardin, Whitehouse, Merkley, and Gillibrand.

STATEMENT OF THE HONORABLE JAMES M. INHOFE, A UNITED STATES
SENATOR FROM THE STATE OF OKLAHOMA

Senator Inhofe. The Committee meeting will come to order, and Senator Boxer and I are going to discourage anything that takes a long time.

[Laughter.]

Senator Inhofe. Because we have some deadlines that we have to meet that are important. We have worked hard on this legislation.

And I would say this, Barbara, as soon as we have 11 people here, we are going to get into this thing. In the meantime, if there are comments you want to make.

STATEMENT OF THE HONORABLE BARBARA BOXER, A UNITED STATES
SENATOR FROM THE STATE OF CALIFORNIA

Senator Boxer. Yes. And I will stop if we get a quorum, obviously.

I am just so pleased that once again our Committee is leading the way in restoring hope in the American people that we can work in a bipartisan fashion.

The Water Resources Development Act of 2016 is the latest in a long list of bipartisan infrastructure bills produced by this Committee. We have done it across these sometimes very solid party lines. I am hopeful we will continue our success of building broad support for legislation to repair aging infrastructure, grow the economy, and create jobs.

We know we have issues with lead and water. It is not just in Flint; it is really starting to show up all over the Country. And certainly what happened in Flint has put a spotlight on our infrastructure challenges. The American Society of Civil Engineers rates our Nation's infrastructure a D plus. If one of our kids came home with that grade, we would say, uh-oh, we better change things. So we need to change things, and this WRDA bill certainly responds to this crisis; and I am so proud of that.

It is not perfect. I know a lot of us could make it better. Certainly, if I had my way, I would, and Senator Inhofe

would. I know Senator Fischer would. We would all try to do this a better way.

But this is the sweet spot. This bill is the sweet spot. We can get it done and we can see additional investment in strengthening our levees, our dams, our navigation channels. And again I wanted to mention this lead contamination is occurring in aging lead pipes such as we find in Jackson, Mississippi, Sebring, Ohio, and Durham, North Carolina. I know in some places in my State we turn off the drinking water for the kids in school.

The American people certainly have a right to expect safe, clean water when they turn on their faucets. But, yet, millions of homes across America still receive their water from crumbling pipes. And this isn't going to get any better; and we have to work on it. So this bill begins the much-needed work to ensure safe, reliable drinking water.

Also, we look at these critical programs that have been studied by the Army Corps, and they did some fine work. And people say, wow, you just did this a couple years ago, why do we have to move? Because the Corps has completed about 27 new studies that need to be authorized or nothing is going to happen in our States. This is a really important bill for that reason.

The bill authorizes projects to maintain vital navigation routes for commerce and movement of goods. Our ports and

waterways, which are essential to the U.S. economy, moved 2.3 billion tons of goods in 2014.

We are going to save lives with this bill. Storms and floods in recent years have resulted in loss of life. They have wiped out entire communities. Nobody knows that better than the Senator from Louisiana. We continue to work to strengthen our levees. In my State, the capital, Sacramento, is at great risk, and I am happy to say the Corps has finished their work on that particular project, so that will be authorized as well.

I will close with this. For the first time we look at innovative ways to create more water supply, and we really need that. And before I put our latest guest to sleep, I will stop and put the rest of my statement in the record.

[The prepared statement of Senator Boxer follows:]

Senator Inhofe. Who do we have here? That is kind of neat.

Senator Capito. Well, today is take your sons and daughters to work day, and this is my granddaughter, Celia.

Senator Inhofe. Oh, isn't that neat?

Celia, how are you, honey? Good. Speak into the microphone. How are you, honey?

Ms. Capito. I'm good.

[Laughter.]

Senator Inhofe. You are good, all right.

Senator Boxer. Did you get her from central casting or is this real?

[Laughter.]

Senator Inhofe. I hate to tell you this, but I have 20 of them just like that.

[Laughter.]

Senator Boxer. Twenty little Inhofes?

[Laughter.]

Senator Inhofe. Hey, let's get serious here.

[Laughter.]

Senator Inhofe. We do have some absolute deadlines and as soon as we get 11 people here we are going to jump right into this thing.

I want to make one comment about a concern that Senator

Fischer has on IPCC. For years we have addressed this. I have been concerned about it and my State of Oklahoma is the same as it is in your State. You have the same concerns, the same problems of farmers actually taking a back seat.

We addressed this partially in our WRRDA 2014 and made some exemptions of those under, I think, 2,500 or something like that. But it didn't go far enough. So I have to say to my good friend from Nebraska, I agree with you. Unfortunately, this is a bill that we want to get through, and there has been a lot of give and take. If there any comment you want to make, this would be a good time while we are waiting for our 11 to show up here.

STATEMENT OF THE HONORABLE DEB FISCHER, A UNITED STATES SENATOR
FROM THE STATE OF NEBRASKA

Senator Fischer. Thank you, Mr. Chairman. If I could make a statement.

I do appreciate your efforts in preparing the legislation before us today. I know that a great deal of the work from you and your staff went into this bill, and I commend you and the Ranking Member for your commitment to the American people to pass a WRDA bill every two years. This bill continues the accelerated project delivery and construction streamlining theme from WRRDA 2014. It is a critical part of our continued effort to provide the American people and the industries they represent with safe and reliable infrastructure.

We can all agree that one of the basic duties of our Federal Government is to provide the necessary resources for commerce to flow freely across this Nation. I am pleased that this bill provides greater flexibility to local, non-Federal stakeholders. It will allow them to fund feasibility studies and receive reimbursement during the project construction phase, instead of waiting until the completion of the project.

In Nebraska, this will be especially beneficial to our natural resource districts. These districts are ready to move forward on projects and they are best equipped to manage water and protect communities.

Furthermore, this legislation includes real reforms for State municipalities who face unfunded combined sewer overflow mandates. Communities like Omaha, Nebraska would be enabled to develop integrated management plans which will allow them to prioritize human health benefits versus environmental impacts.

I am most excited that the WRRDA 2016 would eliminate the EPA's flawed median household income affordability measurement, which has caused great financial distress for fixed and low-income families.

While this bill contains many great provisions, I am concerned that it does not address much needed regulatory relief for on-farm fuel storage. During the WRRDA 2014 process, I worked with then-Chairman Boxer in a good faith effort to address concerns raised by my constituents about the EPA's plan to require farms to prepare and implement spill prevention control and countermeasure, or SPCC, plans. We were able to pass a provision that required the EPA, in consultation with the Department of Agriculture, to conduct a study to determine the appropriate exemption level "to not more than 6,000 gallons and not less than 2,500 gallons based on a significant risk of discharge to water."

The intent of this provision was to place boundaries on the EPA and ensure the Agency is not overregulating on farm fuel storage at capacities that do not pose a significant risk or

harm to water quality. Simply put, if the EPA cannot find a significant risk, then the regulation is unwarranted.

Unfortunately, on June 30th, 2015, the EPA released its study recommending a minimum total above-ground storage capacity of 2,500 gallons in order to comply with SPCC rules. The study contained numerous assumptions and it lacked strong scientific evidence for such a recommendation. For instance, seven examples the EPA uses in the study did not occur on a farm or a ranch. One of the examples cited even lists a spill of 3,000 gallons of jet fuel.

While I don't have those specific numbers, I would guess from my own production agriculture experience it would be hard to find many farms with storage tanks filled with jet fuel.

This overreach continues to weigh heavily on the minds of farmers and ranchers in Nebraska and all across this Country. It is time this Committee addresses this issue and focuses on providing relief. While I am disappointed the Committee failed to address this important issue, I will continue to work with the Chairman and our Ranking Member and all our colleagues to prioritize regulatory relief when WRDA 2016 reaches the Floor.

Thank you, Mr. Chairman.

[The prepared statement of Senator Fischer follows:]

Senator Inhofe. Thank you very much. And let me assure you I am just as concerned about this as you are, and we will be working with you and we are going to see this thing through.

Our eleventh one just came in, Senator Rounds.

First of all, we will begin with a manager's amendment, S. 2848, marked as Inhofe-Boxer No. 1. This amendment makes technical and conforming changes to the bill. It clarifies some of the authorities provided in the bill.

[The text of the manager's amendment offered by Senators Inhofe and Boxer follows:]

Senator Inhofe. Does any Senator seek recognition on this amendment?

[No audible response.]

Senator Inhofe. I move to accept this amendment. Is there a second?

Senator Boxer. Second.

Senator Inhofe. All in favor say aye.

[Chorus of ayes.]

Senator Inhofe. The matter is agreed to.

Does any Senator seek recognition concerning the bill or to offer amendments to the bill?

[No audible response.]

Senator Inhofe. Seeing no further members seeking recognition to offer amendments, is there a motion to report S. 2848, as amended, favorably to the Senate?

Senator Boxer. So moved.

Senator Inhofe. Is there a second?

Senator Vitter. Second.

Senator Inhofe. Is there a roll call requested?

Senator Fischer. Yes.

Senator Inhofe. A roll call is requested. The Clerk will call the roll.

The Clerk. Mr. Barrasso?

Senator Barrasso. Aye.

The Clerk. Mr. Booker?

Senator Boxer. Aye by proxy.

The Clerk. Mr. Boozman?

Senator Inhofe. Aye by proxy.

The Clerk. Mrs. Boxer?

Senator Boxer. Aye.

The Clerk. Mrs. Capito?

Senator Capito. Aye.

The Clerk. Mr. Cardin?

Senator Cardin. Aye.

The Clerk. Mr. Carper?

Senator Carper. Aye.

The Clerk. Mrs. Fischer?

Senator Fischer. No.

The Clerk. Mrs. Gillibrand?

Senator Boxer. Aye by proxy.

The Clerk. Mr. Markey?

Senator Boxer. Aye by proxy.

The Clerk. Mr. Merkley?

Senator Boxer. Oh, he is here. Sorry, Jeff.

[Laughter.]

Senator Carper. Senator Gillibrand is here now, too, if she wishes to vote.

Senator Gillibrand. Aye.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Boxer. Aye by proxy.

The Clerk. Mr. Sessions?

Senator Inhofe. Aye by proxy.

The Clerk. Mr. Sullivan?

Senator Inhofe. Aye by proxy.

The Clerk. Mr. Vitter?

Senator Vitter. Aye.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Inhofe. Aye by proxy.

The Clerk. Mr. Chairman?

Senator Inhofe. Aye.

The Clerk. Mr. Chairman, the yeas are 19, the nays are 1.

Senator Inhofe. And the legislation is reported favorably to the Senate.

The Corps has made some last-minute changes to the study resolutions. I ask unanimous consent that these be revised, resolutions replaced, the study resolutions that we have circulated with this markup. Is there objection to the unanimous consent request?

[No audible response.]

Senator Inhofe. Hearing none, so ordered.

[The referenced information follows:]

Senator Inhofe. Is there a motion to report S. 2808, S, 2824, and two GSA resolutions and six Corps study resolutions en bloc?

Senator Boxer. So moved.

Senator Inhofe. Second?

Senator Vitter. Second.

Senator Inhofe. All in favor say aye.

[Chorus of ayes.]

Senator Inhofe. Objection, no.

[No audible response.]

Senator Inhofe. They are accepted.

Without objection, the legislation and the resolutions are reported favorably to the Committee.

Okay, I ask unanimous consent that the staff be authorized to make technical and conforming changes to the measures approved today. Without objection, so ordered.

With that, our business meeting is concluded. And maybe a new record has been set. I don't know. I appreciate everyone coming in.

[Applause.]

Senator Boxer. Well, a new record has been set for many reasons, and I am just so proud of this Committee when we do this, when we say it can't be exactly as we want it. It is wonderful.

And for the benefit of our beautiful granddaughter over there, I think I want to tell her something. This was a good day and you helped us. Thank you for being here.

Senator Inhofe. That is right.

Oh, yes, Senator Cardin.

Before you speak, Senator Cardin, let me just mention to some who are observing today. We do have, at 9:30, a very significant Armed Services Committee meeting. We have nine members in common and we will have both General Dunford and Secretary Carter.

Senator Cardin is recognized.

Senator Cardin. Thank you, Mr. Chairman. I wanted to make sure we got through the business part in case people had to leave for other voting sessions, because I am strongly supporting this bill.

I thank both you and the Ranking Member for the manner in which you worked together in order to put together this bill that will really help our water infrastructure and our water needs around the Nation, as well as our economy and our safety. For all those reasons I am very pleased that it has a strong provision on water infrastructure, including many provisions that were included in the True Leadership Act.

Thank you for dealing with how we deal with lead poisoning, which Senator Boxer pointed out is not just limited to Flint. I

am glad Flint is taken care of, but it is also deals with issues that we have in Baltimore City, where we have water connections to our schools and to homes where there is lead pipe that is exposing children to lead poisoning. Now, in Baltimore we don't use our water fountains because of that.

This bill will provide a \$300 million five-year program for schools and low-income families so that they can get connections to public water that is safe drinking water for their families. It also includes \$100 million for school and childcare lead testing programs and many other provisions that deal with lead poisoning, which I think is extremely important.

Also, I would hope we would encourage the Environmental Protection Agency to advance the updated lead and copper rules.

It also, I might say on the Chesapeake and on oyster restoration, provides additional resources. We are very appreciative about that. And streamlines the request for regulatory process for oyster agriculture.

If I might, there is one aspect that I know is not included in the bill, Mr. Chairman, that you have been working on with us, and that is to get a more realistic level for the State Revolving Funds. I understand that there is an issue of whether we can find the revenue offset, and I certainly understand that. And I look forward to working with the Chairman and the Ranking Member as this bill moves forward to see whether we can't

increase those limits to more authorizations and reauthorize and have a more realistic number reflecting the current needs under the State Revolving Funds.

With that, Mr. Chairman, again, I thank you very much for all your help.

[The prepared statement of Senator Cardin follows:]

Senator Inhofe. Well, thank you, Senator Cardin.

I also want to thank all the staff, because this was heavy staff duty. It didn't take near as much time for the Ranking Member and me as it did the staff, so we appreciate that very, very much.

Senator Carper. Mr. Chairman?

Senator Inhofe. Yes.

Senator Carper. If I could be recognized, please.

Senator Inhofe. Yes.

Senator Carper. Let me just start off by saying kudos, Bravo Zulu. In the Navy, that is what we say when people do a job well done. Bravo Zulu to you and your staffs and to our own staff. I am grateful to you all.

I especially want to thank you for provisions that expand our ability that are included in this bill to put dredged materials back to use to protect our coasts from flooding and to restore our ecosystems. This will help communities save money on critical flood protection that are becoming more and more important as we face more extreme weather events.

I also should note the important language that was included to ensure that Federal coordination on extreme weather and sea level rise, and I would like to thank my colleagues for your assistance in helping to make sure that our Nation has a coordinated and consistent approach to the research, to the

data, and the investments that make our coastal communities more resilient.

However, for the U.S. to become truly resilient to climate change and our coastal communities, we need to do more, and that is why I filed an amendment that would require the U.S. Army Corps of Engineers to develop a 10-year schedule for their priority beach and inlets. This amendment would have helped ensure that their coastal districts make the best possible use of their limited funds. This kind of priority list would also help to demonstrate the extent of the need of the vulnerabilities that result from underfunding and project delays.

I recognize the Committee has done a lot of good work to achieve the same goals of prioritizing critical projects and achieving adequate flood protections, so I do not ask for a vote on that today, but I look forward to working with our Chairman and our Ranking Member on this issue in the future.

Senator Inhofe. Let me interrupt for just a moment, if I could. I am going to go ahead and authorize Senator Boxer to conclude the meeting so we can get to our Armed Services hearing.

Senator Carper. You don't want to hear the rest of what I have to say here?

[Laughter.]

Senator Carper. I will see you at Bible study. We will pray over it.

Another issue I want to look forward to working with our Chairman and Ranking Member on is an amendment that creates a Delaware River Basin restoration program. The Delaware River Basin is home to more than 8 million people, a lot of people, and is the source of drinking water for more than 15 million people, including the populations of New York City and Philadelphia.

This river is the longest undammed river east of the Mississippi and it contributes approximately \$25 billion annually in economic activity, including sustaining vital fisheries and tourism. It is also of critical ecological importance, providing habitat to hundreds of species of fish and migrating birds.

Other major watersheds in the U.S. benefit from coordinated planning and dedicated funding for regional protection and restoration efforts. The Delaware River watershed is among the Nation's most important systems in terms of its essential resources it provides to people, to fish, and to wildlife. Yet, it receives a fraction of the funding and protection it needs.

My Amendment No. 3 would have addressed this imbalance by creating a Delaware River Basin restoration program within the U.S. Fish and Wildlife Service, and this new program would

ensure funding is rightfully invested in the watershed and encourage innovative preservation strategies that would help make those investments go further.

This amendment is the same language as S. 921, the Delaware River Basin Conservation Act, which is co-sponsored by other colleagues in the Delaware River Basin, including Senators Gillibrand and Booker.

With that, Madam Chairman, I will call it a day, at least a morning. Thank you.

[The prepared statement of Senator Carper follows:]

Senator Boxer. [Presiding.] Well, thank you so much.

Senator Merkley.

Senator Merkley. Thank you very much, Madam Chairman.

Senator Boxer. Well, for the moment. And don't say that too loudly.

[Laughter.]

Senator Merkley. I am delighted that this bill has gone forward and is where it is right now. I particularly wanted to express appreciation for several of the issues that are addressed in this bill that are important to my home State.

One of them is WIFIA, Water Infrastructure Finance and Invasion Act. This is legislation that I know that my colleague from California has worked on, that I have worked on, and is going to create a substantial amount of financing for clean water supply and wastewater treatment.

I do want to note that I would like to see us continue a conversation about having the steel involved be Build America steel. Just as we wanted to make sure our bridges were built with American steel, our water supply systems and water treatment systems should be, as well.

This bill does address a longstanding challenge in the Columbia. Columbia, several major dams went in and the Federal Government had promises to provide relocation assistance to Tribes that had villages up and down the Columbia that were

flooded. Did not fulfill those promises and now we are starting a path to fulfill those promises here many, many decades later. It is way past time to rectify the situation, and this bill has key language that puts us on track for several major projects related to that.

I also wanted to mention the assistance and authorization for small ports and harbors, essential for the Oregon coast. Provisions addressing invasive species, which are of substantial concern. Once established, an invasive species can cause havoc and be incredibly expensive, as well, so we have to be ahead of the problem.

And there are other pieces of this that involve things like the Lower Columbia River ecosystem and the Turning Basin, and many provisions that make a lot of sense and help in many ways. So thank you for your work, thank you for Chair Inhofe's work, the staff team that came together. It has been a very productive dialogue. Thank you.

[The prepared statement of Senator Merkley follows:]

Senator Boxer. Well, thank you.

If there is no other -- oh, hi, Senator. Senator Sullivan, go ahead.

Senator Sullivan. Madam Chair, I just want to take the opportunity to thank you and the Chairman, but thank you in particular for your commitment and leadership on this issue. I think it is a great example of where we are working in a bipartisan manner. And I want to thank your staff. We are talking about aging infrastructure here.

As the Committee members know, I have been emphasizing a lot, not just aging infrastructure, but no infrastructure. And there are a number of communities in my State, but other places in the Country that have no infrastructure in terms of water and sewer. Unfortunately, I think it is an embarrassment to America as a great Country that we are. Some of these communities have diseases that are third world levels. Americans with third world disease levels in terms of ear infections, skin infections because the basic structure that most Americans believe we should have in terms of clean water and sewer, flush toilets, unfortunately a lot of Americans don't have that, and, unfortunately, a lot of them are in my State.

So I really want to thank you because you and your team made a commitment, and we all worked together on this. And I know between you and the Chairman, this has been a priority, and

I appreciate your leadership, I appreciate the Chairman's leadership. I am proud of what is in this bill and I am proud it is a bipartisan bill, and I think this is some of the good that our Country needs right now. So thank you.

Senator Boxer. Well, I can't thank you enough, because you are passionate about the problems you have seen with your own eyes, and you didn't turn away from people who don't have a lot of power. It means a lot.

And I just want to say, I know I speak for Senator Inhofe, how much we appreciate not only our own staff, but the staffs of all the members here sitting very quietly. They all weighed in for their Senator and we came together, we did something good, and there is just three of us here, so we can't commit for anybody else, but I hope the three of us will really take this to Senators McConnell and Reid and say, look, 19 to 1. Nothing happens here 19 to 1. Even a resolution on Mother's Day. Somebody would say, well, my mother was not nice to me today; I am not going for it.

So we have a great product. So I hope that both of you, if we all go to see these two leaders on the Floor, we can get some time and get this done and send a message to the Country that we still can function, which I think sometimes they doubt.

So thank you all again. Senator Inhofe went to another hearing he had to be here at, and I just want to say working

with him and his staff, for us, when we can work together, is just a joy. I really mean it, and they know I mean it. And to all of you, thank you so much.

We stand adjourned.

[Whereupon, at 9:26 a.m. the committee was adjourned.]